

**AGREEMENT
BETWEEN
TOWN OF TEMPLETON
AND
DAVID T. DICKIE
TEMPLETON FIRE/EMS CHIEF**

This Agreement is made this 13th day of February, 2020 between the Town of Templeton (hereinafter the "Town"), a duly authorized municipal corporation in Massachusetts in the County of Worcester, acting by and through its Town Administrator (hereinafter the "Administrator") and David T. Dickie (hereinafter the "Chief"), pursuant to Chapter 41, Section 108O of the Massachusetts General Laws. The Town and the Chief are collectively referred to as the Parties. This Agreement shall be ratified by the board of Selectmen (the "Board").

WHEREAS, the Town desires to secure the services of the Chief in the administration of the Templeton Fire Department (hereinafter the "Department"), which also provides Emergency Medical Services to its citizenry; and

WHEREAS, the Chief is willing to continue to serve in this capacity according to the terms and conditions of this Agreement; and

WHEREAS, the Town and the Chief now wish to enter into a new employment agreement, superceding all prior agreements;

NOW, THEREFORE, the Town and the Chief agree to the following terms and conditions set forth in this Agreement.

1. DUTIES:

- a. The Chief shall assume administrative control of and be responsible for all operational functions of the Department. His duties shall include but not be limited to the following: supervision of daily operations; appointment and supervision of all personnel; preparation and submission of the budget(s) to the Administrator; submission of required reports; responsibility for all expenditures and grants within approved budgets, as well as the receipt of funds and property; supervision and control of equipment and motor vehicles; uniform, equipment and vehicle specifications; supervision and control of all training programs and the assignment of personnel to such programs; maintenance of the discipline of personnel through the issuing of orders, rules, regulations, policies and procedures; and the assignment to shifts and duties of all personnel; availability for hearings before any Board of the Town at which the Chief's presence is required and before any Town meeting when necessary; responsibility for planning, organizing, directing, staffing and coordinating operations; responsibility for communications with the public, including the media, on matters related to operations and

policy; and, any other related and relevant duties as assigned by the Administrator or other such duties as may be required by the Town's By-laws or by state or federal law.

- b. Notwithstanding the Town's adoption of Chapter 48, Section 42 of the Massachusetts General Laws, the Chief shall consult with the Administrator on, and shall follow Town policies and By-laws as may be established from time to time, with respect to the following: the recruitment, promotion, and discipline of Department personnel and the purchase of Department goods and services. The Chief shall not increase the complement, make new or alter existing personnel titles, or modify compensation without Administrator approval.

2. **TERM:**

- a. The term of this Agreement shall be for a period commencing July 1, 2020, and ending on June 30, 2023.
- b. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Town to terminate the services of the Chief at any time, subject only to the provisions set forth in Section 10.
- c. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Chief to resign at any time from his position with the Town, subject only to the provisions set forth in Section 10.
- d. On or before June 1, 2022, the Chief shall notify the Administrator in writing of his desire to be reappointed to a subsequent term of office and to negotiate the terms of employment for such subsequent term. Failure by the Chief to timely provide such notice shall result in termination of his employment upon the expiration of this Agreement. Should the Chief provide such timely notice, then the Administrator shall give the Chief notice on or before June 30, 2022, either that: (1) the Administrator does not intend to reappoint the Chief to a subsequent term, or, (2) the Administrator intends to negotiate a successor Agreement, which must be mutually agreed to and executed before the expiration of this Agreement.

3. **COMPENSATION:**

- a. **Salary.** The Chief shall, subject to a satisfactory performance review as described in Section 9, shall be paid as described below. Such salary shall be made payable during each fiscal year in installments corresponding to the Town's payroll schedule, as if annualized over a 52-week year. In the event the performance review is not conducted during the month of May as provided in Section 9, the Chief's compensation shall be adjusted as if a satisfactory review had been conducted.

i. Fiscal Year 2021 \$80,000

ii. Fiscal Year 2022 \$83,250

iii. Fiscal Year 2023 \$86,500

b. Communication Devices. The Chief is to be available to the Town at all times of the day through the entire year, except during periods of illness, vacation or other leave, and acknowledges the need of the Town to have an efficient means of communication and contact with him when he is either off duty, or out-of-town for any and all reasons. The Town shall provide to the Chief a town-paid cellular phone for ease of timely and continual communications with him and shall pay all costs associated with the cellular phone during the time of his employ. The Town shall also provide a laptop computer to the Chief for his work-related use while away from the office. Upon any termination of this Agreement, the Chief shall return the cellular phone and laptop to the Town on the last day of service under this Agreement or the Town may deduct the reasonable commercial value of the cellular phone and laptop, together with any installed software, at the time of the termination of the Agreement from any final payment otherwise due to the Chief.

c. Uniform and Equipment. The Chief shall be provided with an annual clothing allowance of One Thousand and Two Hundred dollars (\$1,200) and shall be responsible for the maintenance, repair and replacement of his uniforms and equipment. In addition, the Town shall furnish and maintain two (2) sets of so-called "turnout" and ancillary firefighting gear.

4. **BENEFITS:**

a. The Chief shall enjoy the rights and benefits of the Town's Personnel Policy and all general benefits provided to Town employees under the General By-laws, under Town Meeting action, or by state law, as they now exist or may hereafter be amended or changed, except as hereinafter provided.

i. Vacation: The Chief shall be allowed to carry-over all accrued vacation leave as of June 30, 2020, and accrue future vacation time in accord with the Town's Personnel Policy provided, however, that he shall be classified as an employee with eleven years of service as of the effective date of this Agreement. All requests for vacation leave, sick leave and personal time shall be made to the Administrator on forms provided for said purposes.

ii. Absences: The Chief shall advise the Administrator of any anticipated or emergency absences from work greater than forty-eight (48) hours. Any use of vacation time in excess of three (3) days shall be pre-approved by the Administrator, with said approval not to be unreasonably withheld.

- b. The Chief shall notify the Administrator if he shall be absent from duty or on leave and shall specify who shall be in command during such absence or leave.

5. **GENERAL EXPENSES:**

The Chief shall be reimbursed for any reasonable and necessary expenses incurred in the performance of his official duties subject to appropriation. Notwithstanding the foregoing, the Chief acknowledges that the Administrator, after consultation with the Chief, is the final arbiter of any dispute as to what is or is not a reasonable expense.

6. **RESIDENCY & USE OF TOWN VEHICLE:**

The Chief shall maintain residency within the Town or another community within 15 miles, border to border. The Town will provide the Chief with a vehicle for his official use. The Town will be responsible for all costs associated with such vehicle. The vehicle may be used by the Chief in connection with the performance of his official duties and for attendance at activities classified as professional growth and development. Since the Chief is on call in the event of an emergency, the vehicle may be used for personal reasons incidental to the performance of his duties.

7. **HOURS OF WORK:**

- a. The Chief shall be required to devote the amount of time necessary to effectively, professionally, and diligently discharge the duties of the position, and manage the affairs of the Department and the employees under his supervision. The Chief's work week shall ordinarily consist of a five-day week, Monday through Friday, of forty (40) hours, in addition to evening and/or weekend hours that may be necessary from time to time in order to properly discharge his duties.
- b. It is recognized that in certain situations, the Chief may have to devote a great deal of time outside of the normal work week to properly discharge his duties, and to that end, the Chief will be allowed a flexible work schedule. Such flexible schedule will allow, for example, the Chief to take time off from work at his discretion, without such time being charged against available benefit leave time.
- c. The Chief is an exempt employee for the purpose of the Fair Labor Standards Act. The Chief shall not be granted any compensatory time for hours worked.
- d. The Chief agrees to remain in the exclusive employ of the Town and shall not accept employment by any other employer, including but not limited to consulting, teaching, grant writing, etc. without the express written consent of the Administrator.

8. **PROFESSIONAL DEVELOPMENT:**

- a. **Obligations & Responsibilities.** The Town recognizes its obligations to the professional

development of the Chief and the Chief recognizes his responsibility to pursue such professional development.

- b. Dues and Subscriptions. The Town agrees to appropriate funds for the professional dues and subscriptions of the Chief for his full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional growth and advancement, and for the good of the Town, subject to prior approval of the Administrator.
- c. Conferences. The Chief will be allowed to attend the annual Massachusetts, New England, and/or International Association of Fire Chiefs Conference without loss of vacation or other leave. The Chief will be reimbursed by the Town for all reasonable and ordinary expenses (including travel expenses) incurred while attending or traveling to the aforementioned conferences subject to prior approval of the Administrator.
- d. Courses and Seminars. The Chief shall annually attend at least twenty-four (24) hours of professional development courses, seminars and meetings, which shall be approved in advance by the Administrator, without loss of vacation or other leave. The Town shall appropriate an amount for the Chief's use for travel and reasonable expense of the Chief for such courses, institutes, and seminars that, in his reasonable judgment are necessary for his professional development. If the Town requires the Chief to attend any course, seminar or meeting, the Town shall pay for the cost of such programs and for travel and subsistence expenses, incurred by the Chief in attending such programs.
- e. College-Level Courses. The Chief, in his personal time, shall pursue appropriate professional certification and job related college level courses in accordance with the Goals and Objectives agreed to by him and the Administrator and further described below in Section 9. The Chief shall annually complete at least two college-level courses in Fire Science or two courses completed in the furtherance of a degree in Fire Science, or a related field, for which the Chief may substitute one approved course from the Massachusetts Fire Academy. For these courses, the Chief shall first pay for the tuition and all fees and be reimbursed after successful completion of the course with a grade of B or better. All educational, travel, and subsistence expenses shall be subject to appropriation and the prior approval of the Administrator.

9. **PERFORMANCE REVIEW AND GOALS:**

- a. Annual Goals and Objectives. By July 31, 2020, the Chief's professional goals and objectives for the upcoming year shall be reduced to writing and submitted to the Administrator for review and approval. These goals shall include the requirement to annually complete the courses described above in Section 8(e).
- b. Performance Review. The Chief acknowledges that his performance shall be evaluated by the accomplishment of the specific goals and objectives described above. On or

before May 30 of each year, the Administrator shall conduct a performance review, which shall take into account the accomplishment of the goals and objectives established under this Agreement and a written statement submitted by the Chief. The written statement by the Chief shall include the following: 1) a summary of the Chief's activities and accomplishments for the previous year together with the reasons – if any – for failure to meet the goals and objectives established in Section 9(a) and 2) the proposed goals and objectives for the upcoming year. The Administrator shall provide the Chief with a written performance review and evaluation and provide an adequate opportunity for the Chief to discuss his evaluation.

- c. Salary Review. The Chief acknowledges that the salary increases described above in Section 3(a) are conditioned on the annual completion of the courses described above in Section 8(e). The Chief will not receive such annual salary increase until such time as he has completed said courses, unless otherwise excused by the Administrator upon the basis of extraordinary circumstances. The Chief further acknowledges that the increase in compensation anticipated to be granted over his FY 2020 compensation shall not be granted until the submission of the Professional Development Plan required in Section 8(e).

10. **TERMINATION AND DISCIPLINE:**

- a. Termination. This Agreement may be terminated by either party as provided below:

- (i) By mutual written consent, signed by the Administrator and the Chief, upon such terms and conditions as may be acceptable to both parties at the time of termination.
- (ii) By the Chief upon not less than sixty (60) days written notice to the Administrator. Until the effective date of termination under such circumstances, the Chief shall continue to perform his duties and shall, if requested, cooperate with the Administrator in a search for a successor.

- (iii) By the Town as further described below:

- 1. For cause by the Board, acting on the recommendation of the Administrator. For purposes of this Agreement, "cause" shall be include, but is not limited to: malfeasance (defined as wrongdoing or misconduct by a public official or the commission of an act that is positively unlawful), misfeasance (defined as the doing of a lawful act in an unlawful or improper manner so that there is an infringement on the rights of others), and nonfeasance (defined as the failure to do what duty requires to be done). If the Administrator recommends termination of the Chief's employment, the Board may vote terminate this Agreement and remove the Chief from employment, after providing the Chief with written notice of the charges against him at least 14-days prior to a hearing. The Chief shall have the right to be represented by counsel and shall have the right to choose whether or not any such hearing shall be closed or open to the public. In the event of such removal

for cause, the Town shall have no obligation to pay any severance sum.

2. Without cause by the Board, acting on the recommendation of the Administrator. In the event that the Administrator wishes to terminate this Agreement without cause as defined above, the Administrator, subject to ratification by the Board of such action, shall give the Chief notice of termination of the Agreement and shall provide severance pay equal to three (3) months salary to the Chief. Said sum is to be paid as a lump sum at the time of termination.

b. Discipline. The Chief shall report to the Administrator. The Administrator may, after providing notice to the Chief, discipline the Chief for cause as defined above. If the Administrator determines that there are grounds for discharge, he shall proceed in accordance with the process described in Section 10(a)(iii)(1). The principles of progressive discipline shall apply.

11. INDEMNIFICATION AND LITIGATION:

- a. Indemnification. To the extent permitted by law, the Town shall defend, save harmless, and indemnify the Chief against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act, malfeasance, or misfeasance, while the Chief is acting in good faith within the scope of his duties, even if such claim has been made following his termination from employment. The Town shall pay the amount of any settlement or judgment rendered thereon (except for willful, intentional, or criminal acts) and may compromise or settle any such claim or suit and pay the amount of any compromise or settlement. The Chief agrees to promptly notify the Town of any such claim and to cooperate fully with the Town and the counsel designated by the Town to handle such claim. The provisions of this section shall not apply to disputes between the Town and the Chief regarding the terms and conditions of his employment or concerning any of the terms and provisions of this Agreement.
- b. Litigation. In the event the Chief has left the service of the Town but has been called upon to provide testimony, document review or advice as an expert witness or party in litigation, the Town shall compensate the Chief on a per diem basis by the payment of \$500.00 per day for such services. The Town shall also pay the ordinary and necessary expenses of air and ground transport, lodging, meals, fees and sundry items relative thereto.
- c. This section shall survive the termination of this Agreement.

12. NOTICE:

Notices pursuant to this Agreement shall be given personally in hand or by first-class mail, postage prepaid, addressed as follows, unless either party hereafter informs the other party in writing

of a change of address. Notice shall be deemed as given as of the date of personal service or as the postage mark of such written notice as sent by first-class mail.

TOWN: Town Administrator
Templeton Town Hall
160 Patriots Road
East Templeton, MA 01438

CHIEF: David T. Dickie
427 Dudley Road
Templeton, MA 01468

13. **DEATH DURING EMPLOYMENT:**

If the Chief dies during the term of his employment, the Town shall pay to his estate a final accounting and compensation which would otherwise be payable to the Chief up to the date of the Chief's death, including accrued salary, accrued but unused absent leave, and sick leave eligible to be sold back to the Town.

14. **PARTIES BOUND:**

This Agreement shall be binding upon the successors, heirs, and assigns of the parties hereto.

15. **AMENDMENTS:**

This Agreement may be modified at any time in writing by the mutual consent of the parties executed in the same manner as this original Agreement.

16. **ENTIRE AGREEMENT:**

The text herein contains the entire Agreement of the parties. No prior understanding, oral interpretation, direction or change, unless executed in writing, shall be valid.

17. **GOVERNING LAW:**

This Agreement will be construed and governed by the laws of the Commonwealth of Massachusetts.

18. **SEVERABILITY:**

Should any clause or provision of this Agreement determined to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

This Agreement is executed as a sealed instrument this 13th day of February, 2020

David T. Dickie

David T. Dickie, Chief

Carter Terenzini

Carter Terenzini, Town Administrator

Presented to the Board of Selectmen on 02/12/2020 Acted Upon 02/12/2020

Approved by a vote of 5 in favor, 0 opposed, and 0 recused or abstained